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BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 85-78-E - ORDER NO. 85-1001

November 7, 1985

IN RE: Application of Duke Power Company for approval of an increase in its rates and charges.	)))))	ORDER DENYING PETITION FOR REHEARING AND RECONSIDERATION OF ORDER NO. 85-841

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a Petition for Rehearing and Reconsideration of Order No. 85-841 (Petition) by Steven W. Hamm, Consumer Advocate for the State of South Carolina (the Consumer Advocate) filed October 18, 1985. The Petition requests that the Commission provide a reconsideration and opportunity for the Consumer Advocate to be heard on five issues: (1) the treatment of costs associated with the commercial operation of Catawba Unit No. 1, (2) the treatment of the $11.2 million gain from the 1978 sale of Catawba, (3) the interest sychronization adjustment, (4) the treatment of the investment tax credit associated with McGuire Unit No. 2, and (5) the treatment of lobbying expenses, EEI dues, Three Mile Island Clean-up, and other similar items.

The Consumer Advocate alleges that the Commission's treatment of these five issues constitutes error and that each error constitutes arbitrary and capricious action in violation of Chapter 27, Title 58 and Chapter 23, Title 1, Code of Laws of

South Carolina, 1976, as amended, and in violation of the Due Process and Equal Protection Clauses of the Constitutions of the United States and South Carolina.

The Commission disagrees and denies the Consumer Advocate's Petition for Rehearing and Reconsideration of Order No. 85-841.

The Consumer Advocate's first allegation of error concerns the treatment of costs associated with the commercial operation of Catawba Unit No. 1. According to the Consumer Advocate, the method adopted by the Commission was not within the scope of any of the recommendations by the parties and leaves uncertain the quantification of purchase power costs to be incurred in the future.

As to the length of time chosen by the Commission to levelize the purchase power costs, the Commission used five and seven and one-half years for the cooperatives' agreement and the municipalities' agreement, respectively. As noted in Order No. 85-841, this represents one-half of the contract period of the buy-back agreements for the parties. Although no party specifically proposed the time period adopted, there was testimony supporting the contention that a longer time period for levelization or phase-in would leave too much to the uncertainties of the future. Additionally, Staff's proposal sought to levelize the purchase power costs over the life of each agreement. The period found appropriate by the Commission is within the scope of the life of the agreements. The Commission's

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decision and the basis underlying it are fully set forth in Order No. 85-841 and is supported by the record.

The Consumer Advocate's contention that the levelization approach leaves much to chance is incorrect. Rates will not be set on unknown purchase power costs, as alleged by the Consumer Advocate, but on capacity payments based on computations as negotiated between Duke Power Company (the Company) and the Cooperatives and Municipalities. These payments are known and are not subject to much, if any, variance. In the event of some fluctuation, Order No. 85-841 provides for a true-up at the end of each levelization period. It should also be noted that the Commission has continuing jurisdiction over this issue and could institute appropriate proceedings to deal with any unforeseen contingency or take appropriate action in the context of a rate case. The Commission is of the opinion that the levelization approach adopted in Order No. 85-841 is based on sound logic and reasonable judgment and should not be disturbed.

The second allegation of error by the Consumer Advocate concerns the Commission's treatment of the $11.2 million gain on the sale of Catawba No. 2 in 1978. The Consumer Advocate recommended that the gain be flowed through to the ratepayers over the next ten years. The Commission did not adopt this proposal. The Commission, however, did not reject the proposal on the ground that it would result in retroactive ratemaking, but that the adoption of the Consumer Advocate's recommendation would

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require retroactive analysis (Order No. 85-841 at 26) of the proceeding in Docket No. 79-300-E. The Consumer Advocate would ask the Commission to go back approximately six years, with the aid of hindsight, and change an adjustment that at the time was deemed appropriate under the circumstances.

Although that particular adjustment was appealed to the Circuit Court, it was upheld by the Circuit Court and not pursued further even though other issues in that proceeding were taken to the South Carolina Supreme Court. The purpose of not flowing the 1978 gain to the ratepayer in Order No. 80-474 was to insulate the ratepayer from a loss which could have occurred from a sale rather than a gain. The 1981 gain was addressed in Order No. 83-92 in Docket No. 82-50-E. There, the Commission had to deal with the cancellation of Perkins, Cherokee Units 2 and 3, and the termination of the Peter White Coal Supply Contract. The Commission reasoned in Order No. 83-92 that in light of the circumstances, it was appropriate for the ratepayer to participate in the gain from the sale of Catawba Unit No. 1, since the ratepayer was required to absorb the loss in the cancellations (Order No. 83-92 at 54, 55).

Now, six years after the fact, the Consumer Advocate asks the Commission to reach back and change an established method of accounting for the 1978 gain on the sale of Catawba Unit No. 2. This, in the Commission's opinion, is a bad precedent to set and gives none of our jurisdictional utilities adequate assurances of stability in the ratemaking process.

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The Commission's interest synchronization adjustment was the third allegation of error made by the Consumer Advocate. The Consumer Advocate relies on a proposed IRS rule in its recommendation. Although there seems to be a movement to change the treatment of the annualization of interest expense, until that proposal becomes a rule, the Commission will not jeopardize the Company's investment tax credits. Therefore, the Commission will not reconsider its position on this issue.

The Commission was presented with two different proposals concerning the ITC associated with the McGuire Unit No. 2. The Consumer Advocate proposed to adjust the ITC for the difference between ITC had it been annualized and ITC accrued based on the test year ending June 30, 1984. The Company's method tracks the flowback of the ITC as it is amortized over the life of the asset. Neither method is incorrect, and either could have been adopted by the Commission. The Commission adopted the Company's treatment since it more accurately reflects the ITC as it is amortized. The Commission did not abuse its discretion in choosing the Company's adjustment.

The last error alleged by the Commission deals with the Commission's rejection of the Consumer Advocate's proposed disallowance of all lobbying salaries and expenses, EEI dues, Three Mile Island Clean-up, Chamber of Commerce of the United States dues, Reddy Communications, and the Conference Board. The

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Consumer Advocate takes the position that such expenses are not reasonably and necessarily incurred in the provision of electric service and therefore, should be denied. The Commission was of the opinion in Order No. 85-841 that Staff's adjustment effectively eliminated the expenses not beneficial to the ratepayer and not related to the generation of electricity. The Commission sees no reason to change its decision in Order No. 85-841.

The Commission has carefully reviewed the Petition of the Consumer Advocate and finds that the evidence of the record and the Commission's interpretation thereof fully support the Commission's decision in Order No. 85-841.

The Commission is of the opinion, and so finds, that the decision embodied in Order No. 85-841 is fully supported in law, logic, and fact and that the provisions of said Order should not be modified or vacated.

IT IS THEREFORE ORDERED:

1. That the relief requested in the Petition for Rehearing and Reconsideration of Order No. 85-841 filed by Steven W. Hamm, Consumer Advocate for the State of South Carolina, be, and hereby is, denied.

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2. That the provisions of Order No. 85-122 shall remain in full force and effect as originally promulgated.

BY ORDER OF THE COMMISSION:

Henry D. Jones
Acting Chairman

ATTEST:

James H. Hale
Executive Director

(SEAL)

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